

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

FREDRICK E. STRUNK, as Administrator  
of the Estate of LYNNE G. STRUNK,  
deceased; on behalf of the Estate of LYNNE  
GAY STRUNK; and on behalf of  
FREDRICK E. STRUNK, surviving spouse;  
and BRIAN P. DONAHUE, surviving adult  
child, individually,

Plaintiffs,  
v.

THE UNITED STATES OF AMERICA,  
Defendant.

NO.

## COMPLAINT FOR DAMAGES [MEDICAL NEGLIGENCE]

COME NOW THE PLAINTIFFS, by and through their attorneys of record, Otorowski & Golden, PLLC, and for their causes of action against the defendant allege as follows.

## **I. IDENTIFICATION OF PLAINTIFFS**

1.1 FREDRICK E. STRUNK, as Administrator of the Estate of LYNNE G. STRUNK.

The Plaintiff, Fredrick E. Strunk, brings this action as Administrator of the Estate of Lynne G. Strunk, deceased, in his representative capacity on behalf of the Estate of Lynne G. Strunk, on behalf of Fredrick E. Strunk, surviving spouse, and on behalf of Brian P. Donahue, surviving adult child. Fredrick E. Strunk, was appointed as Administrator of the Estate of Lynne G. Strunk on January 2, 2019 in Pierce County Superior Court, Cause No. 19-4-02150-3. At all times material

**COMPLAINT FOR DAMAGES  
[MEDICAL NEGLIGENCE]**

OTOROWSKI MORROW & GOLDEN, PLLC  
ATTORNEYS AT LAW  
298 WINSLOW WAY WEST  
BAINBRIDGE ISLAND, WASHINGTON 98110  
(206) 842-1000; (206) 842-0797 Fax

hereto, Lynne G. Strunk received health care services from United States Army d/b/a Madigan Army Medical Center, and Madigan Endoscopy Center & Gastroenterology Clinic, and their partners, employees, agents and/or ostensible agents, and there existed a fiduciary health care provider-patient relationship between Lynne G. Strunk and defendants. At all times material hereto, deceased, Lynne G. Strunk, resided in Tacoma, Pierce County, WA.

1.2 FREDRICK E. STRUNK, INDIVIDUALLY. At all times material hereto, plaintiff, Fredrick E. Strunk, was the surviving spouse of Lynne G. Strunk, and resided in Tacoma, Pierce County, WA. Fredrick E. Strunk brings his individual claims through Fredrick E. Strunk, as Administrator of the Estate of Lynne G. Strunk.

1.3 BRIAN P. DONAHUE. At all times material hereto, plaintiff, Brian P. Donahue, was a surviving adult child of Lynne G. Strunk, and resided in Lakewood, Pierce County, WA. Brian P. Donahue brings his claims individually through Fredrick E. Strunk, Administrator of the Estate of Lynne G. Strunk.

## **II. IDENTIFICATION OF DEFENDANT**

2.1 UNITED STATES OF AMERICA. United States of America, is the proper party  
to this action brought pursuant to statutory provisions of the Federal Tort Claims Act seeking  
money damages for personal injury and wrongful death caused by the negligent or wrongful acts  
and omissions of one or more federal government employees while acting within the scope of their  
federal employment. Title 28 U.S.C. §§ 1346(b), 1402, 2401(b), 2402, 2671 – 2680, et seq.  
(hereinafter referred to as “FTCA”). Plaintiffs’ allegations herein after are against one or more  
federal employees who are employed by the United States Army d/b/a Madigan Army Medical  
Center, and Madigan Endoscopy Center & Gastroenterology Clinic are “federal agencies” as  
defined in the FTCA. 28 U.S.C. § 2671.

1           2.2 At all times material hereto, Madigan Army Medical Center was a military hospital  
2 under the command of the Army Medical Department of the U.S. Army, formerly known as the  
3 Army Medical Service (AMS). Madigan Army Medical Center is an agency of the United States  
4 of America. The United States of America, Defendant herein, through its agency, the Department  
5 of U.S. Army, at all times material, owned, operated and controlled the healthcare facilities known  
6 as Madigan Army Medical Center and Madigan Endoscopy Center & Gastroenterology Clinic in  
7 Tacoma, Pierce County, Washington. Defendant United States of America staffed said healthcare  
8 facilities and was authorized to provide healthcare services and treatment to the military personnel  
9 and their dependents at home and abroad.

10           2.3 At all times material hereto, Madigan Army Medical Center and Madigan Endoscopy  
11 Center & Gastroenterology Clinic provided health care services and treatment to Lynne G. Strunk,  
12 through its partners, employees, agents and/or ostensible agents, including but not limited to Lucas  
13 Leonard, M.D. and there existed a fiduciary health care provider-patient relationship between  
14 Madigan Army Medical Center and Madigan Endoscopy Center & Gastroenterology Clinic, its  
15 partners, employees, agents and/or ostensible agents, and Lynne G. Strunk.

16           2.5 Upon plaintiffs' information and belief, Lucas Leonard, M.D. was an employee,  
17 agent, or ostensible agent of Madigan Army Medical Center and Madigan Endoscopy Center &  
18 Gastroenterology Clinic.

19           **III. ADMINISTRATIVE PRE-FILING COMPLIANCE**

20           3.1 On December 5, 2019, Claims for Damages on behalf of Fredrick E. Strunk,  
21 individually and on behalf of the Estate of Lynn G. Strunk, and Brian P. Donahue individually,  
22 pursuant to the FTCA, were submitted to and received by the Office of the Center Judge Advocate.

1       3.2     Defendant United States of America has failed to make final disposition of these  
2 claims within six months of December 05, 2019. Therefore, the above-entitled action is timely  
3 pursuant to 28 U.S.C. §2675(a).

4       3.3     Plaintiffs Fredrick Ernest Strunk and Brian Patrick Donahue have satisfied all  
5 applicable requirements of 28 U.S.C. §§2401 and 2675.

6       3.4     On December 5, 2019, pursuant to RCW 4.96 et al., Otorowski Morrow & Golden,  
7 PLLC, attorneys for plaintiffs, presented their claims for damages to the designated agents of  
8 United States Army d/b/a Madigan Army Medical Center and Madigan Endoscopy Center &  
9 Gastroenterology Clinic to receive claims for damages under RCW 4.96.

10      3.5     On December 6, 2019, Timothy L. Spellman, Attorney-Advisor for the Department  
11 of The Army, accepted service of the Claims for Damages for Fredrick Ernest Strunk and Brian  
12 Patrick Donahue, on behalf of the United States Army; Lucas Leonard, M.D.; Madigan Army  
13 Medical Center and Madigan Endoscopy Center & Gastroenterology Clinic; and on behalf of  
14 himself, all designated to receive claims for damages under RCW 4.96.

15      3.6     More than 61 calendar days have elapsed since the presentment of the Claim for  
16 Damages to the designated agents for United States Army and this action against United States  
17 Army is timely.

18                          **IV. JURISDICTION AND VENUE**

19      4.1     This Federal District Court has jurisdiction because this action is brought pursuant  
20 to and in compliance with 28 U.S.C. §§ 1346(b), 2671–80, commonly known as the Federal Tort  
21 Claims Act, which vests exclusive subject matter jurisdiction of the Federal Tort Claims Act in  
22 Federal District Court.

1       4.2     The United States of America may be served with process in accordance with Rule  
2     4(i) of the Federal Rules of Civil Procedure by serving a copy of the Summons and Complaint on  
3     the United States Attorney Teresa Gorman, Acting United States Attorney for the Western District  
4     of Washington by certified mail, return receipt requested at her office:

5              U.S. Attorney's Office Western District of Washington  
6              700 Stewart Street, Suite 5220  
7              Seattle, WA 98101-1271

8       Service is also affected by serving a copy of the Summons and Complaint on Merrick B.  
9     Garland, Attorney General of the United States of America, by certified mail, return receipt  
requested at:

10              The Attorney General's Office  
11              ATTN: Civil Process Clerk  
12              U.S. Department of Justice  
13              950 Pennsylvania Avenue, NW  
14              Washington, DC 20530-0001

15       4.3     Venue is proper in this district pursuant to 28 U.S.C. § 1331(e) and 28 U.S.C. §  
16     §1402(b) because the United States of America is a Defendant, the Plaintiffs reside in this district  
17     and have their domicile in this district, and no real property is involved in the action. Venue is also  
proper in this district because a substantial part of the events or omissions giving rise to the claim  
occurred within this judicial district.

18                      **V. STATEMENT OF THE FACTS**

19       5.1     Prior to the incidents giving rise to these claims, Lynne Gay Strunk was a 66-year-  
20     old woman with myasthenia gravis (hereafter "MG"), chronic kidney disease, COPD,  
21     hyperlipidemia and hypothyroidism who complained of dysphagia. She received her care at  
22     Madigan Army Medical Center. Lynne Strunk lived at home with her husband, able to perform  
23

1 normal activities of daily living. She was treated with Cellcept (an immunosuppressant) and  
2 prednisone for MG.

3 5.2 On June 2, 2016, a barium swallow test showed: "Esophageal dysmotility with  
4 corkscrewing during swallowing and delayed transit likely secondary to patient's myasthenia  
5 gravis."

6 5.3 On November 17, 2016, an upper GI endoscopy or esophagogastroduodenoscopy  
7 (hereafter "EGD") was performed at Madigan Army Medical Center and the esophagus was dilated  
8 for the EGD procedure using a Savary dilator.

9 5.4 On November 19, 2017, Mrs. Strunk saw Lucas Leonard, M.D. in the Madigan  
10 Endoscopy Center & Gastroenterology Clinic and he arranged for an upper GI endoscopy with  
11 dilation as well as colonoscopy for complaints of diarrhea.

12 5.5 On December 6, 2017 the upper GI endoscopy and dilation were performed first,  
13 followed by the colonoscopy. The endoscopy findings were notable for diffuse esophageal  
14 candidiasis. Mucosal biopsies were taken in the stomach; the exact location was not indicated.

15 5.6 After returning home from the upper GI endoscopy on December 6, 2017, Mrs.  
16 Strunk developed abdominal pain, then dyspnea.

17 5.7 On December 7, 2017 Mrs. Strunk was taken to the Emergency Department at  
18 MultiCare Tacoma General Hospital where she was intubated for respiratory failure and shock.  
19 An abdominal CT showed free air and fluid in the peritoneum. She was taken emergently to  
20 surgery where a five cm posterior gastric body "perforation" was identified and surgically repaired.  
21 Surgical cultures grew gram negative rods and candida. Broad spectrum antibiotics including  
22 antifungals were administered for two weeks. She was on the ventilator for three weeks. MG was  
23 treated with her chronic meds as well as IVIG. Renal function was also impaired.

1       5.8     On January 6, 2018 a follow-up abdominal CT scan was performed that showed  
2 several small abdominal fluid collections, the largest of which was about 3 cm. 15 ml of pus was  
3 drained by Image-guided percutaneous drainage, or "IR." Cultures grew candida. Mrs. Strunk  
4 was placed back on antibiotics, including fluconazole.

5       5.9     On January 20, 2018, IV antifungal medication was changed from fluconazole to  
6 micafungin. She improved and antibiotics were stopped after two weeks. She was able to be  
7 discharged to a skilled nursing facility on January 29, 2018.

8       5.10    On February 5, 2018, Mrs. Strunk was readmitted to Tacoma General Hospital with  
9 hypercalcemia, nausea, vomiting and dehydration. She was found to be taking both Rocaltrol  
10 and Vitamin D supplements. These were stopped and her calcium improved, as did her nausea  
11 and vomiting. She was discharged on February 9, 2018.

12      5.11    On March 6, 2018, Mrs. Strunk returned to the Tacoma General Emergency  
13 Department with fever, abdominal pain, nausea and vomiting. An abdominal CT scan showed  
14 inflammatory changes within the peritoneal fat and omentum that were more prominent than on  
15 earlier studies. The ER doctor concluded that this represented infarction of the omentum and sent  
16 her back to the skilled nursing facility.

17      5.12    On March 11, 2018 Mrs. Strunk returned to the Tacoma General Emergency  
18 Department with fever. Mrs. Strunk was given IV Compazine and immediately developed  
19 respiratory distress and was intubated. She was sedated to the point of unresponsiveness and  
20 admitted to ICU. Her D-dimer was elevated, and duplex scans revealed bilateral DVT. She was  
21 anticoagulated. She could not have CT-A because of a dye allergy so the possibility of PE was  
22 not confirmed. She was treated with heparin, then Xarelto.

1       5.13 Mrs. Strunk was felt to have a flare of MG and was given IVIG. She was able to  
2 be extubated, but then developed CHF. She was supported with BiPAP and did not require  
3 reintubation. She continued to complain of vomiting. She had another EGD, once again showing  
4 candida esophagitis. She was treated with fluconazole. She was given another course of  
5 antibiotics when there was persistent fluid collection in the abdomen as well as possible  
6 pneumonia.

7       5.14 On April 4, 2018 Mrs. Strunk was discharged. Discharge medications included,  
8 among others, cipro, flagyl and simvastatin (all drugs than can worsen symptoms of MG.).

9       5.15 On April 5, 2018 Mrs. Strunk was readmitted with severe diffuse weakness,  
10 encephalopathy, dehydration/renal failure, lactic acidosis and pneumonia. She was initially given  
11 IVIG and antibiotics, but became unresponsive. She was transitioned to comfort care and was  
12 transferred to hospice where she passed away on April 14, 2018.

## 13                     VI. LIABILITY AND NEGLIGENCE

14       6.1 This is an action for professional negligence, medical malpractice, and wrongful  
15 death against the defendant brought pursuant to the laws of the United States of America and the  
16 state of Washington, to include 28 U.S.C. § 1346, the Federal Tort Claims Act, and RCW 7.70 et  
17 seq.

18       6.2 Plaintiffs hereby notify defendants, The United States of America, United States  
19 Army d/b/a Madigan Army Medical Center, and Madigan Endoscopy Center & Gastroenterology  
20 Clinic that they are pleading all theories of recovery and bases for liability available pursuant to  
21 law to include negligence, lack of informed consent, and otherwise failure to render the necessary  
22 medical care and treatment that Lynne G. Strunk required.

1       6.3     Duty: Defendant United States of America and its agents, ostensible agents,  
2 employees, and assigns had a fiduciary healthcare provider-patient relationship with Lynne G.  
3 Strunk. As a result of this healthcare provider-patient relationship, defendant United States of  
4 America and its agents, ostensible agents, employees, and assigns owed duties to provide  
5 reasonably prudent medical care, including but not limited to, properly, adequately and timely  
6 manage, evaluate, monitor, treat, diagnose, intervene, refer and consult regarding Lynne Strunk's  
7 upper GI endoscopy with dilation; properly inform Lynne Strunk of material risks to their approach  
8 to treatment; properly obtain Lynne Strunk's informed consent to treatment; and otherwise render  
9 the necessary care that Lynne Strunk required.

10       6.4     Defendant United States of America is vicariously liable for the negligent acts and  
11 omissions of its agents, ostensible agents, employees, and assigns including nurses, medical  
12 assistants, physician assistants, and doctors providing health care treatment to patients on its  
13 premises.

14       6.5     Breach: Defendant United States of America and its agents, ostensible agents,  
15 employees, and assigns breached its duties of providing reasonably prudent medical care to Lynne  
16 Strunk in one or more of the following respects:

- 17           a. In failing to timely and properly monitor Lynne Strunk;
- 18           b. In failing to timely and properly manage Lynne Strunk;
- 19           c. In failing to timely and properly perform complete and thorough assessments and  
20              examinations of Lynne Strunk;
- 21           d. In failing to timely and properly diagnose Lynne Strunk;
- 22           e. In failing to timely and properly treat Lynne Strunk;

1           Defendant's failures to provide reasonably prudent medical care to plaintiffs further  
2 include, but are not limited to, the following:

3           i.        Informed Consent for high-risk upper GI endoscopy procedure. Defendant  
4 failed to properly inform Mrs. Strunk of the material risks to its approach to treatment and  
5 obtain her informed consent to its approach to treatment. An upper GI endoscopy with  
6 dilation was a contraindicated procedure for a patient taking prednisone and Celcef for  
7 esophageal dysmotility with corkscrewing during swallowing and myasthenia gravis.  
8 Extra care is required of a physician performing an upper GI endoscopy on a patient taking  
9 prednisone or Celcef because of the effects these medications have on tissue in the  
10 digestive system.

11          ii.       Lucas Leonard, M.D. In proceeding with the endoscopy and dilation  
12 procedure and the failure to adequately perform the procedure on December 6, 2017, Lucas  
13 Leonard, M.D. caused the five cm posterior gastric body perforation. The standard of care  
14 required Dr. Lucas to monitor where the upper GI endoscopy wire was located during the  
15 procedure; to ensure it was being inserted and placed correctly; and to re-insert the scope  
16 following upper GI endoscopy to check for bleeding. Dr. Lucas' failure to recognize and  
17 treat the perforation immediately following the upper GI endoscopy procedure was below  
18 the standard of care.

19          iii.       Failure to Monitor, Transfer or Refer. It was negligent and below the  
20 standard of care to discharge Mrs. Strunk following the procedure. The standard of care  
21 required Mrs. Strunk's medical providers at Madigan Endoscopy Center &  
22 Gastroenterology Clinic to keep her in the recovery room for post-operative monitoring of  
23 her symptoms.

1                          iv.        Negligent Care. Defendants otherwise failed to render the necessary  
2                          reasonably prudent health care Lynne G. Strunk required in a manner to be proven at trial.

3                          6.6      At all material times, the employees, agents, or representatives of the United States  
4                          of America were negligent and caused the injuries sustained by the Plaintiffs.

5                          6.7      As a direct and proximate result of the negligence, recklessness, willfulness, and  
6                          gross negligence of Defendant's agents, employees, representatives and/or ostensible agents, as  
7                          described herein, the plaintiff's decedent, Lynne Strunk, suffered severe injuries that ultimately  
8                          resulted in her death on April 5, 2018.

9                          **VII. INJURIES AND DAMAGES**

10                         7.1      Injuries and Damages of Lynne Strunk: The deviation from the standards of  
11                         reasonable medical care by Ms. Strunk's providers at Madigan Army Medical Center and Madigan  
12                         Endoscopy Center & Gastroenterology Clinic caused the chain of events including the causation  
13                         or exacerbation of the gastrointestinal infections that led to her need for multiple hospital visits,  
14                         diagnostic testing, transfer to skilled nursing and hospice, and ultimately her untimely death. As a  
15                         direct and proximate result of the negligence by attending medical providers, employees, and  
16                         agents of Madigan Army Medical Center and Madigan Endoscopy Center & Gastroenterology  
17                         Clinic Mrs. Strunk suffered severe and permanent injuries that caused her mental, emotional, and  
18                         physical pain, suffering, discomfort, anxiety, and stress up to and including her death

19                         7.2      Injuries and Damages of Fredrick E. Strunk: As a direct and proximate result of  
20                         defendants' negligence and breach of duties, plaintiff, Fredrick E. Strunk, surviving spouse of  
21                         Lynne Strunk personally experienced mental and emotional distress associated with the chain of  
22                         events including the causation or exacerbation of the gastrointestinal infections that required  
23                         multiple hospital visits, diagnostic testing, transfer to skilled nursing and hospice, and ultimately

1 the untimely death of his spouse, Lynne Strunk. As a direct and proximate result of defendants'  
2 negligence and breach of duties, Fredrick E. Strunk has also suffered past economic and  
3 noneconomic damages and will continue to suffer noneconomic damages including but not limited  
4 to loss of consortium; mental and emotional pain, suffering, and distress.

5       7.3     Injuries and Damages of Brian P. Donahue: As a direct and proximate result of  
6 defendants' negligence and breach of duties, plaintiff, Brian P. Donahue, surviving adult child of  
7 Lynne G. Strunk personally experienced mental and emotional distress associated with the chain  
8 of events including the causation or exacerbation of the gastrointestinal infections that required  
9 multiple hospital visits, diagnostic testing, transfer to skilled nursing and hospice, and ultimately  
10 the untimely death of his mother, Lynne Strunk. As a direct and proximate result of defendants'  
11 negligence and breach of duties, Brian P. Donahue has also suffered noneconomic damages  
12 including but not limited to loss of parental consortium; mental and emotional pain, suffering, and  
13 distress.

14       7.4     Damages will be proven at the time of trial and damage amounts will be deemed  
15 reasonable and proper as determined by the trier of fact.

16           **VIII. LIMITED WAIVER OF PHYSICIAN/PATIENT PRIVILEGE**

17       8.1     Pursuant to RCW 5.60.060(4)(b) and Fed. R. Evid. 501, plaintiffs hereby waive the  
18 physician/patient privilege only insofar as necessary to place any and all alleged damages at issue  
19 at the time of trial, as might be required by statute or amended statute or case law interpreting the  
20 statutes of the state of Washington. It should be understood that plaintiffs' actions do not constitute  
21 a waiver of any of their constitutional rights and that the defendants are not to contact any treating  
22 physicians without first notifying counsel for the plaintiffs so they might bring the matter to the  
23 attention of the Court and seek appropriate relief, including imposing limitations and restrictions

1 upon any desire or intent by the defendants to contact past or subsequent treating physicians ex  
2 parte pursuant to the rule announced in *Loudon v. Mhyre*, 110 Wn.2d 675 (1988); and *Smith v.*  
3 *Orthopedics International, Ltd., P.S.*, 170 Wn.2d 659 (2010). See *Youngs v. PeaceHealth* and  
4 *Glover v. State*, 179 Wn.2d 645, 316 P.3d 1035 (2014).

5 **PRAYER FOR RELIEF**

6 WHEREFORE, plaintiffs pray for judgment against the defendants by way of damages in  
7 such amounts as might be proven at the time of trial and decided and determined by the trier of  
8 fact as reasonable and just under the evidence, as well as for costs and disbursements herein  
9 incurred, and for such other relief as the Court may deem just and equitable.

10  
11 DATED this 3rd day of May, 2021.

12 Otorowski Morrow & Golden, PLLC

13 By: /s/ Jane Morrow

14 Jane Morrow, WSBA # 22533  
15 Lara A. Wilcox, WSBA # 43229  
16 298 Winslow Way W.  
Bainbridge Island, WA 98110  
(206) 842-6891  
Email: [jm@medilaw.com](mailto:jm@medilaw.com)  
[lw@medilaw.com](mailto:lw@medilaw.com)

17 Attorneys for Plaintiffs